



915-312
08/976,322

REMARKS

Regarding the non-final Office Action dated 25 September 2006, that Office Action states at page 7, first full paragraph as follows:

Terasawa & APA, page 6, lines 1-10 apparently utilize a numerical identification format, instead of the claimed non-numerical textual worldwide global identification method. Nevertheless, *Eyer* discloses the benefits of using the well-known HTML format of a URL address for identifying additional TV programming services, see col. 3, lines 17-15 and col. 4, lines 40-50. (emphasis added)

Applicant does not understand what "col. 3, lines 17-15" means. After all, the number "15" is less than the number "17". Is this not an error? This exact same error occurred at page 5 of the final Office Action dated 12 May 2005, and Applicant respectfully notes that Applicant already pointed out this error and asked for correction (at page 11 of the paper mailed by Applicant on 6 July 2006). Applicant respectfully stresses that Applicant cannot respond intelligently because Applicant does not know what part of the *Eyer* reference is being cited in the Office Action.

Furthermore, page 3 of the non-final Office Action incorrectly quotes the Applicant's remarks of 6 July 2006. Applicant's remarks of 6 July 2006 did not contain the following sentence quoted in the Office Action: "Applicants never admitted that APA on page 6, lines 1-10 did anything more than identify a problem with existing data transmission streams..." Applicant respectfully inquires why the non-final Office Action is quoting things which Applicant did not say on 6 July 2006? The quoted sentence may have been in some remarks that Applicant made last year, but it is not in Applicant's response of 6 July 2006.

Moreover, in the present non-final Office Action, the Response to Arguments beginning on page 2 discusses admitted prior art (APA) without ever mentioning or responding to Applicant's traversal at page 14 of Applicant's remarks of 6 July 2006. The Response to

Arguments only mentions and misquotes page 11 of Applicant's response of 6 July 2006, and completely omits any mention of page 14 of Applicant's response of 6 July 2006. Applicant would respectfully like to know why. After all, the traversal on page 14 of Applicant's response of 6 July 2006 is critically important to Applicant's case.

Respectfully, it appears that the present non-final Office Action is substantially a response to Applicant's remarks of 31 January 2005 instead of a response to Applicant's remarks of seventeen months later on 6 July 2006. Applicant respectfully inquires whether Applicant is not entitled to have a response to the paper filed 6 July 2006. The paper filed 6 July 2006 included many new features, including the traversal on page 14. Is not Applicant entitled to a response to that traversal?

Likewise, Applicant's response filed 6 July 2006 included very substantial claim amendments. It does not seem fair for the Office Action to substantially repeat arguments made in previous Office Actions, without regard to the substantially new and different remarks filed by Applicant on 6 July 2006 in support of those claim amendments.

Applicant must also respectfully note that the response filed on 6 July 2006 was merely a retransmission of what Applicant previously filed on 13 February 2006, due to the USPTO's misplacement of the 13 February 2006 materials. Thus, the present non-final Office Action is not responding to any of the remarks that Applicant has submitted during the entire year of 2006, and is instead responding to what Applicant already submitted almost two years ago, on 31 January 2005 (prior to filing a Request for Continued Examination (RCE) on 11 November 2005). In other words, Applicant has paid a substantial fee for an RCE (with three-month suspension of action), and yet the Office Action is only responding to remarks made by Applicant prior to the RCE. This seems unfair, and Applicant respectfully requests a response to Applicant's arguments filed this year.

Also, Applicant observes that the non-final Office Action says on page 2 that "Applicant's submission filed on 11/5/05 has been entered" (emphasis added). Respectfully,

what about Applicant's submissions filed subsequent to 11/5/05? Why have they not been entered?

In summary, Applicant mailed the request for RCE on 11/11/05 including amendments. Applicant then submitted a Request for Continuance of Prosecution on 2/13/06 with amendments. Applicant then retransmitted amendments on 7/6/06. Have any of these amendments been entered? If so, then why does page 2 of the present Office Action say that only a submission filed 11/5/05 has been entered? Moreover, Applicant is unaware that anything at all was submitted on that last-mentioned date (11/5/05), and clarification is therefore respectfully requested.

Applicant respectfully traverses the rejection in the non-final Office Action for the reasons explained above, and for the reasons explained in the responses filed on 2/13/06 and re-filed on 7/6/06, which are incorporated herein by reference in their entirety. Applicant earnestly solicits a new non-final Office Action (or Notice of Allowance) due to the aforementioned defects in the present non-final Office Action.

APPLICANT TRAVERSES ASSERTION OF ADMITTED PRIOR ART

Applicant respectfully notes that the Office Action relied upon Admitted Prior Art (APA), namely page 6, lines 1-10 of the specification. However, Applicant never intended to disclose as part of prior art the following clause: "it is advantageous to represent the DVB definitions within the format of a URL." Applicant therefore respectfully traverses the assertion of Admitted Prior Art.

It is Applicant's own idea that it is advantageous to represent the DVB definitions within the format of a URL. "One's own work may not be considered prior art in the absence of a statutory basis...." *Riverwood v. Jones, Riverwood Int'l Corp. v. R.A. Jones & Co.*, 66 USPQ2d 1331 (Fed Cir. 2003). The Federal Circuit elaborated in *Riverwood* that, "the patentee's discussion of his own patent in the specification section entitled 'Summary of the Prior Art' did not constitute an admission that the patent was prior art."

Applicant respectfully reiterates that the cited passage of page 6 (discussing the advantage of representing the DVB definitions in an extendable form) does not represent the knowledge of the person skilled in the art. That is an additional reason why Applicant now seasonably traverses the rejections. A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. MPEP § 2144.03.

As the Office Action mentions, Applicant has stated (at page 5, line 20 of the application) that a URL addressing mechanism is known. That fact by no means suggests it is advantageous to represent DVB definitions in an extendable form or in a URL format. Applicant stated (at page 6, lines 11-22 of the application) that prior art numerical addresses have various disadvantages, but that in no way suggests any admission about representing DVB definitions in any particular way. Likewise, page 11 of Applicant's response of January 31, 2005 indicated that existing data transmission streams utilize DVB definitions, but that does not suggest that it is advantageous to represent the DVB definitions within the format of a URL, with or without a DSM-CC object carousel.

Again, Applicant respectfully submits that it is Applicant's own idea to advantageously represent the DVB definitions within the format of a URL, in an extendable form. See, for example, the embodiment described at page 10 of the application, lines 25-37. Applicant never suggested that any prior art disclosed representing the DVB definitions within the format of a URL.

CONCLUSION

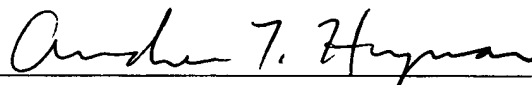
Applicant respectfully submits that the claims of the present application define patentable subject matter and are patentably distinguishable over the cited references for the reasons explained. Additionally, the claims should be independently allowable because Admitted Prior Art (APA) was incorrectly relied upon in the Office Action.

The rejections of the Office Action being inapplicable, retraction thereof is requested, and early passage of the pending claims to issue is earnestly solicited. Applicants would appreciate if

the Examiner would please contact Applicants' attorney by telephone, if that might help to speedily dispose of any unresolved issues pertaining to the present application.

Respectfully submitted,

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